

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
STATE OF MISSOURI DIVISION**

PHILIP ROSEMANN, et al.,)	
)	
Plaintiffs,)	Case No. 4:14-cv-00983-LRR
)	
v.)	Judge: Honorable Linda R. Reade
)	(Chief Judge Dist. Ct. N. Dist. Iowa)
ST. LOUIS BANK,)	
)	
Defendant)	
)	
)	

**DEFENDANT ST. LOUIS BANK'S
PROPOSED VOIR DIRE**

Defendant St. Louis Bank (the “**Bank**”) submits the following proposed voir dire, pursuant to the Court’s December 9, 2014 Order Setting Civil Jury Trial, Final Pretrial Conference and Requirements for the Proposed Final Pretrial Order (Doc. #34, para. VII B (3)) as follows:

I. Familiarity with Case, Parties, Attorneys, Witnesses

1. Aside from my brief explanation of the case, has anyone heard of this case before today or do you have any personal knowledge of this case or the matters involved in this case? If yes:

- a. How did you become aware of this matter?
- b. What have you heard?
- c. Have you already formed any opinion about this case? If so, please explain.
- d. Is there anything you have heard to this point that would lead you to believe you would favor one side over the other?

2. Plaintiffs are individuals who live in several different cities and states. I am going to read to you a list of the Plaintiffs and where they are from. Please raise your hand as I read these names if you know, or are acquainted with, any of the Plaintiffs as I read their names. And if you do know one of these people, or are acquainted with them, I will ask you some follow up questions. [Read from list of Plaintiffs remaining on Counts I – IV, to be provided by counsel upon dismissal of certain Plaintiffs.¹]

- a. How do you know [the individual]?
- b. How well do you know [the individual]?
- c. Does your acquaintance with [the individual] make you feel like you might lean in his/her favor; or lean against him/her?
- d. Do you think you might be more likely to render a verdict in his/her favor because of your acquaintance?
- e. Do you feel that as a result of your acquaintance with [the individual] you would feel uncomfortable rendering a verdict against him/her?
- f. Do you feel that as a result of your acquaintance with [the individual] you might be more likely to render a verdict against him/her?

3. The Plaintiffs are represented in this matter by Jonathan Andres in Clayton, Missouri, and Sebastian Rucci in Long Beach, California. Do you know, have you ever been represented by, or are you otherwise acquainted with these individuals or any of their employees?

- a. If yes, who do you know?

¹ The Plaintiffs' counsel agreed to dismiss with prejudice all claims of Plaintiffs Bob Moore, Jim Neill, Homer and Dorothy Smith, Thomas Barnes, Marie Merlotti, Wanda Lavender, Audrey and John Holland, Elaine Reed, and Brad Werner. However, they have not yet been dismissed.

- b. How do you know that individual?
 - c. How well do you know that individual?
 - d. Does your acquaintance with [the individual] make you feel like you might lean in favor of their clients, the Plaintiffs in this case?
 - e. Do you think you might be more likely to render a verdict in the Plaintiffs' favor because of your acquaintance with their attorney/firm?
 - f. Do you feel that as a result of your acquaintance with [the individual/firm] you would feel uncomfortable rendering a verdict against the Plaintiffs?
 - g. Do you feel that as a result of your acquaintance with [the individual/firm] you might be more likely to render a verdict against the Plaintiffs?
4. St. Louis Bank is located in St. Louis County at Highway 40/61 and Highway 141. Do any of you, your family members or close friends own now or have [you/they] ever owned any stock in St. Louis Bank?
- a. If yes, please explain.
 - b. Will your current or former ownership of St. Louis Bank stock impair your ability to sit as a fair and impartial juror in this matter? If so, please explain.
5. Have any of you or your family members ever worked for St. Louis Bank?
- a. If yes, when did you work for St. Louis Bank?
 - b. Is there anything about that work experience which you feel might impact your ability to be fair and impartial in this case?
6. Do you know or are you acquainted with any St. Louis Bank employees?
- a. If yes, who do you know?
 - b. How do you know that individual?

c. How well do you know that individual?

d. Does your acquaintance with [the individual] make you feel like you might lean in favor of St. Louis Bank in this case?

e. Do you think you might be more likely to render a verdict in St. Louis Bank's favor because of your acquaintance with its attorneys or law firm?

f. Do you feel that as a result of your acquaintance with [the individual] you would feel uncomfortable rendering a verdict against St. Louis Bank?

g. Do you feel that as a result of your acquaintance with [the individual] you might be more likely to render a verdict against St. Louis Bank?

7. St. Louis Bank is represented in this lawsuit by the law firm of Polsinelli in downtown St. Louis, Missouri. The attorneys from this firm who will be in this trial are Michael Campbell, Matthew Hans, and DeMario Carswell. Do you know, have you ever been represented by or are you otherwise acquainted with any of these individuals, with the Polsinelli law firm or with any of its employees?

a. If yes, who do you know?

b. How do you know the individual?

c. How well do you know the individual?

d. Does your acquaintance with [the individual or firm] make you feel like you might lean in favor of their client St. Louis Bank in this case?

e. Do you think you might be more likely to render a verdict in St. Louis Bank's favor because of your acquaintance with its attorney/firm?

f. Do you feel that as a result of your acquaintance with [the individual/firm] you would feel uncomfortable rendering a verdict against St. Louis Bank?

g. Do you feel that as a result of your acquaintance with [the individual/firm] you might be more likely to render a verdict against St. Louis Bank?

8. Have any of you, your family members or close friends been account holders with St. Louis Bank?

a. If so, please explain the association and the accounts you hold or held.

b. Is there anything about that association that will impair your ability to sit as a fair and impartial juror in this matter? If so, please explain.

c. Did St. Louis Bank hold your money and follow your instructions on checks, wire transfers, or other transfers that you made?

d. Did you ever expect St. Louis Bank to do anything more than make your money available and follow your instructions on checks, wire transfers, or other transfers you may have made?

e. Did you tell St. Louis Bank what you were doing with your money or how you were using it each time you wrote a check or asked the bank to make transfer?

f. Did you ever expect St. Louis Bank to investigate how you were using your money, or whether your investments with others were safe and secure?

9. Martin T. Sigillito is a former lawyer from Clayton, Missouri and was a bishop in the American Anglican Church. Do any of you know or are you acquainted with Martin Sigillito?

a. How do you know Martin Sigillito?

b. How well do you know him?

c. Do you think your acquaintance with Martin Sigillito might cause you to lean in favor of the Plaintiffs in this case?

d. Do you feel that as a result of your acquaintance with Martin Sigillito you would feel uncomfortable rendering a verdict against the Plaintiffs?

e. Do you think your acquaintance with Martin Sigillito might cause you to lean against the Plaintiffs in this case?

10. Do you know any of the following witnesses who may be called at trial? [The Court is respectfully referred to the listing of witnesses on the parties' respective witness lists].

a. If so, please explain your association or acquaintance with the witness.

b. Is there anything about that acquaintance that will impair your ability to sit as a fair and impartial juror in this matter? If so, please explain.

II. Availability and Background

11. This trial is scheduled to conclude on approximately December 18. We will make every effort to be as efficient as possible, and to conclude this trial as soon as possible. Does anyone have any impairment, obligations, or any other reasons that you would be unable to sit for trial from now until December 18, 2015?

12. Have you ever served as a juror before?

a. In which court was the case heard? [Federal/State and Jurisdiction]

b. Was it a criminal or civil trial?

c. What were the [charges (if criminal)] [claims (if civil)]?

d. Were you selected for the trial jury?

e. Were you selected as foreperson?

f. Did you reach a verdict?

g. What was the verdict?

h. Was the verdict for plaintiff or defendant?

i. Was there anything in your experience as a juror that would in some way impair your ability to sit as a juror in this case? If so, please explain.

13. Have you, any of your family, or a close friend ever been involved in a lawsuit as a plaintiff, defendant, including having filed any type of lawsuit as a plaintiff or having any lawsuit filed against you as a defendant? If so:

a. Please explain.

b. Did anything in your dealings and experience with the legal system leave you unhappy or unsatisfied? If so, please explain.

c. Would anything in your experience with the legal system impair your ability to sit as a fair and impartial juror in this case? If so, please explain.

14. Does anyone here work for a court, or have a family member or close friend who works for a court in any capacity?

a. Please explain.

b. Is there anything about that experience with the legal system leave you unhappy or unsatisfied? If so, please explain.

c. Would anything in that experience with the legal system or the courts impair your ability to sit as a fair and impartial juror in this case? If so, please explain.

15. Are there any attorneys on the panel, or do any of you have a family member who is an attorney? If so:

a. Please explain.

b. Does [your or your family member's] practice involve any aspect of banking or investments?

c. Does [your or your family member's] practice involve litigation or trial practice?

d. Does the fact that [you or/your family member or friend] is an attorney impact your being able to sit as a juror in this case?

e. Can you sit as a fair and impartial juror in this case?

16. Have you ever received any education or training, either in school or on the job, about contracts, banking or investments?

a. Please explain.

b. Would anything regarding that education or employment impair your ability to sit as a fair and impartial juror in this case? If so, please explain.

c. Can you agree to follow the law in accordance with this Court's instructions rather than basing your decision on your understanding or knowledge of banking?

17. Have you ever had any education or training, either in school or on the job, relating to Individual Retirement Accounts, known as "IRAs"?

a. Please explain.

b. Would anything regarding that education or employment impair your ability to sit as a fair and impartial juror in this case? If so, please explain.

18. Have you ever had any education or training, either in school or on the job, relating to finance or accounting?

a. Please explain.

b. Would anything regarding that education or employment impair your ability to sit as a fair and impartial juror in this case? If so, please explain.

19. Have you ever appeared as a witness in any trial or legal proceeding? If so:

- a. Please explain.
- b. What were you called on to testify about?
- c. What was the result of that matter, if any?
- d. Would anything about that experience impair your ability to serve as a fair and impartial juror in this case. If so, please explain.

III. Investment Experience

20. Have any of you or any company you worked for ever loaned money to another person or company before? If so:

- a. Please explain.
- b. Was the loan secured or unsecured?
- c. What kind of due diligence did you do before you made the loan?
- d. Were you satisfied with the level of due diligence that you performed, or do you think you could have done something more?
- e. Did you hire an attorney or advisor to assist you in making the loan?
- f. Did you obtain financial statements or tax returns from the borrower before you made the loan?
- g. Did you obtain cancelled checks or wire transfer confirmations to determine that your loan proceeds actually went to the borrower?
- h. [If the loan was secured]:
 - i. Did you obtain a Deed of Trust or Mortgage to secure the loan?

ii. Did you obtain title insurance to insure the title to the property?

iii. Did you obtain any appraisals or inspection reports on the property?

i. Was the loan repaid?

j. Would anything about that experience impair your ability to serve as a fair and impartial juror in this case. If so, please explain.

21. Have any of you ever purchased a home or real estate, or invested in real estate before? If so:

a. Please explain.

b. Did you visit and inspect the property before you purchased it?

c. Did you obtain a loan to finance your purchase of the property? If so, through what lender?

d. Did your lender obtain an appraisal on the property before you purchased it? If so, did your lender make sure that the value of the property justified the making of the loan?

e. Did your lender obtain financial statements or tax returns from you before it made the loan? Did your lender explain why it needed financial statements and tax returns?

f. Did your lender obtain a Deed of Trust or Mortgage to secure the loan?

g. Did you obtain title insurance to make sure that you were actually getting good title to the property?

h. Did you close your purchase of the property through a title insurance company?

i. What other things did you do to make sure that you were going to be satisfied with your purchase of the property?

j. Did you or your title company obtain cancelled checks or wire transfer confirmations to make sure that your sale proceeds actually went to the seller?

k. Would anything about that experience impair your ability to serve as a fair and impartial juror in this case. If so, please explain.

22. Have you or any member of your family ever lost money in an investment where you felt the loss was caused by another person?

a. What were the circumstances of that?

b. Do you believe that experience might make you feel more inclined to award the Plaintiffs damages as compensation for their investment losses in this case?

23. Have you or any member of your family ever been involved in a dispute, whether litigation ensued or not, involving any investments? If so:

a. Please explain.

b. Did anything during that experience leave you unhappy or unsatisfied? If so, please explain.

c. Did anything regarding that experience impair your ability to sit as a fair and impartial juror in this case? If so, please explain.

24. Some of the Plaintiffs in this trial are sophisticated business persons and investors, and some are not. Does anyone here feel that they would be biased in reaching a decision about the issues in this case based on either sympathy or lack of sympathy for any of the Plaintiffs?

25. St. Louis Bank is a community bank here in St. Louis. Does anyone here feel that they would be biased in reaching a decision about the issues in this case simply because a bank is involved, or because of the size of the bank – small or large?

IV. Plaintiffs' Burden

26. There are [72]² Plaintiffs in this trial who have claims against St. Louis Bank. Does anyone here believe that they may have reservations about considering each of the Plaintiffs' claims separately and individually in arriving at your decision in this case?

a. Do you understand that each Plaintiff has to prove that St. Louis Bank is liable to him or her and that he or she suffered damage as the result of St. Louis Bank's actions?

b. The amount of the alleged damages is different for each of the Plaintiffs. Is there anyone who feels that they would not be willing to evaluate each Plaintiff separately in deciding what damages, if any, are appropriate for each Plaintiff?

V. General Trial Issues/Ability to Serve

27. Do you have any beliefs or convictions, whether moral, religious, philosophical or otherwise, that would prevent you from being a fair and impartial juror in this case?

28. Do you feel that you will be able to follow the court's instructions relating to the law in this case, even if you disagree with the applicable law?

29. Is there any reason why you would be unable to reach a fair and impartial verdict in this case based solely on the evidence submitted during the trial and on the instructions which the Court will give to you?

² If eight of the Plaintiffs are dismissed as agreed, this number becomes 64.

Dated: November 13, 2015

Respectfully submitted,

POLSINELLI PC

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing pleading was served by (____) United States Mail, postage prepaid; (____) fax; (X) electronic mail; (____) Federal Express; and/or (____) hand delivery this 13th day of November, 2015, to:

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